IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 25431 of 2006(C)

PETITIONER:

BHARAT SANCHAR NIGAM LIMITED,
A GOVERNMENT OF INDIA ENTERPRISE,
REP. BY GENERAL MANAGER, CMTS,
RTP BUILDINGS, LUKES LANE,
THIRUVANANTHAPURAM-695 001.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:
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1. OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

2. STATE OF KERALA,
REP. BY SECRETARY TO LOCAL SELF GOVT. INSTITUTIONS (URBAN), SECRETARIAT ANNEXE,
THIRUVANANTHAPURAM.

3. STATE OF KERALA,
REP. BY SECRETARY TO LOCAL SELF GOVT. INSTITUTIONS (RURAL), SECRETARIAT ANNEXE, THIRUVANANTHAPURAM.

4. THE SECRETARY,
ATHIYANNUR GRAMA PANCHAYATH,
KAMUKINKODE, NEYATTINKARA.

BY SR. GOVERNMENT PLEADER (SHRI K. J. MOHAMMED ANZAR)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 25431 OF 2006 C

Dated this the 2nd July, 2007

JUDGMENT

Petitioner is a Government of India Enterprise. They have approached this Court feeling aggrieved by Ext.P1 order of the Ombudsman. The Ombudsman has issued a direction to the effect that before allowing the installation of Mobile Telephone Towers by the Local Self Government Institutions, besides the normal Certificate obtained from the Pollution Control Board, they should also be insisted to obtain a No Objection Certificate from the Atomic Energy Commission.

2. When this matter came up today, there is no appearance on behalf of the fourth respondent. I heard the learned Government Pleader also. Learned counsel for petitioner would submit that the matter in issue is covered by a decision of a learned Single Judge of this Court in W.P.(C). No.21724/06. Therein, the learned Single Judge took note of the stand of the

Atomic Energy Regulatory Board in an Affidavit submitted by it before the Bombay High Court, besides the Report of the World Health Organisation which were to the effect that the Atomic Energy Regulatory Board has absolutely nothing to do with the effects of radiation from the Mobile Towers and that the potentiality of the Mobile Telephone Towers to cause risk to human life due to emission is relatively low when compared to radio towers. The learned Single Judge had quashed the order passed by the Ombudsman directing the Local Authorities to insist on the Mobile Telephone Companies to produce No Objection Certificate from the Atomic Energy Commission. I respectfully follow the Judgment of the learned Single Judge and Ext.P1 is quashed. In view of the fact that the condition in Ext.P1 appears to be illegal and is unwarranted, there will be a direction to the fourth respondent not to enforce for the NOC from the Atomic Energy Commission for granting permission

for Mobile Tower erection. Of course, this is not to say that the petitioner is not to satisfy the Panchayat that they have necessary statutory clearance and NOC.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

kbk.